

Applicant : Peter Gernold
Serial No. : 10/784,848
Filed : February 24, 2004
Page : 5 of 10

Attorney's Docket No.: 13906-184001 / 2003P00962 US

Amendments to the Drawings:

The attached replacement sheet of drawings include changes to Fig. 3 and replace the original sheets including Fig. 3.

In Figure 3, the reference number 300 has been removed.

Attachments following last page of this Amendment:

Replacement Sheet (1 page)
Annotated Sheets Showing Change (1 page)

REMARKS

In response to the action of December 13, 2007, applicant asks that all claims be allowed in view of the amendments to the claims and the following remarks.

Claims 1-6, 10-15, 19 and 20 are currently pending, of which claims 1, 10 and 19 are independent. Claims 1-6, 10 and 19 have been amended, and claims 7-9 and 16-18 have been cancelled without prejudice or disclaimer of subject matter. No new matter has been introduced.

Drawings

The action indicated that Figure 3 included reference character 300 not mentioned in the description. Applicant has amended Figure 3 to delete the reference character 300 and accordingly requests withdrawal of the objection.

Section 112, 2nd paragraph rejection

The action rejected claims 1-9, 10 and 19 under 35 U.S.C. 112, second paragraph. *See* action at page 3. With regard to claim 1, applicant has amended independent claim 1 to delete "or propagated signal." Accordingly, applicant respectfully requests reconsideration and withdrawal of this rejection of claim 1 and its dependent claims 2-9.

Claims 1, 10 and 19 have been rejected for allegedly providing intended uses without reciting "any active, positive steps delimiting how this use is actually practiced." *See* action, p. 3. As amended, claims 1, 10 and 19 each recite, in addition to other steps, generate data subscriptions based on the type of data to be distributed to data sites and the distribution criterion.

According to section 2173.02 of the M.P.E.P., "[t]he essential inquiry pertaining to this requirement [of definiteness] is whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity." Applicants submit that one of ordinary skill in the art would be able to ascertain the meaning of the amended claims. Applicant submits that claims 1, 10 and 19 are fully compliant with section 112, second paragraph, and thus respectfully requests reconsideration and withdrawal of the rejection.

Section 101

Claim 1 has been rejected under 35 U.S.C. 101. Claim 1, as amended, is directed toward a computer program tangibly embodied on computer-readable medium that is configured to, when executed, perform specified steps. Claims 9 and 18 have been cancelled rendering the 35 U.S.C. 101 rejection moot. Claims 1, 10 and 19 have been rejected under 35 U.S.C. 101 for not reciting any steps. For these reasons and the reasons discussed above with respect to the claims 1-9, application respectfully requests reconsideration and withdrawal of the rejection.

Provisional Double-patenting Rejection

Claims 1, 10, and 19 have been provisionally rejected are provisionally rejected as obvious over claims 1, 7 and 15 of co-pending Application No. 10/784,196. Without conceding obviousness, applicant respectfully requests that this provisional rejection be held in abeyance until the claims of both this application and those in Application No. 10/784,196 are otherwise held to be allowable.

Section 102

Claims 1-4, 8-13 and 17-19 have been rejected as being anticipated by U.S. Patent No. 5,870,605 (Bracho). Applicant requests reconsideration and withdrawal of the rejection because, as described below, Bracho does not describe or suggest the subject matter of amended independent claims 1, 10 and 19.

As amended, claim 1 recites (emphasis added):

receiving a user input identifying a type of data to be distributed to data sites;

receive a user input identifying a distribution criterion that defines the basis upon which the type of data is to be distributed to the data sites, *the distribution criterion comprising a query executable against portions of the application data;*

store the type of data to be distributed and the distribution criterion for use in generating data subscriptions in a network of distributed computer systems operating an application program having application data of various data types; and

generate data subscriptions based on the type of data to be distributed to data sites and the distribution criterion.

In contrast, Bracho describes techniques for making information available via a networked system of publishers and subscribers. *See Bracho at col. 1, lines 19-21.* “Publishers” publish information, and “subscribers” request and use the information. *See Bracho at col. 1, lines 63-*

65. In particular, each subscriber receives information (or an event) published by the publisher if, and only if, the events match subscription criteria specified by the subscriber. *See Bracho at Abstract; col. 2, lines 19-21.* To receive information, the subscribers register a subscription for an event type. *See Bracho at col. 8, lines 44-51.* Subscribers then specify the information that they want to receive by an event type and the content of the event. *See Bracho at col. 5, lines 24-25.* As such, Bracho describes a system in which information is published to subscribers based on the event and the content of the event *as specified by the subscriber*. Bracho does not describe or suggest generating data subscriptions based on the type of data to be distributed to data sites and the distribution criterion where the distribution criterion includes *a query executable against portions of the application data*, as recited by claim 1.

Therefore, for at least these additional reasons, applicant respectfully requests reconsideration and withdrawal of the rejection of independent claim 1 and its dependent claims 2-4.

Independent claims 10 and 19, although different in scope from claim 1 and each other, recite features similar of those in claim 1 discussed above. Accordingly, for at least these reasons, applicant requests reconsideration and withdrawal of the rejection of claims 10 and 19 and their respective dependent claims 11-13 and 19.

Section 103

Claims 5-7, 14-16 and 20 have been rejected as being unpatentable over Bracho in view of U.S. Patent No. 5,884,324 (Cheng). Claims 5-7, 14-16 and 20 each depend from one of independent claims 1, 10 or 19. Chen does not remedy Oldale's failure to describe or suggest the subject matter recited by independent claims 1, 10 and 19.

The action indicates that Cheng, in column 4, lines 58-61, discloses a distribution criterion including a query executable against portions of the application data, as recited by amended independent claims 1, 10 and 19. Applicant respectfully disagrees.

Cheng describes techniques for accessing information stored in a database on a database management system. *See Cheng at col. 1, lines 6-8.* Cheng's techniques include a replication agent for providing replicated data from the database management system to a remote user. *See*

Cheng at col. 1, lines 8-10. Cheng's replication agent receives a subscription message from the remote client. *See* Cheng at col. 3, lines 45-47. The subscription message identifies data that the remote client wants replicated from the database management system and specifies a replication period. *See* Cheng at col. 3, lines 48-53. "The subscription message may contain logical DMBS 108 commands, such as SQL statements." Cheng at col. 3, lines 53-55. The data replication agent accesses and reads a change log stored in the database management system and transmits changed data to the remote client. *See* Cheng at col. 3, lines 59-62 and 65-66. Cheng also discloses "[o]nce communications are established, the query result will be sent to and stored at the remote client 100, and the daemon 132 will notify the person making the database request of the query result." Cheng at col. 4, lines 58-61.

Although Cheng discloses that a subscription message may include a logical DMBS commands, such as SQL statements, and that the query result may be sent to the person making the database request, Cheng does not describe or suggest generating data subscriptions based on the type of data to be distributed to data sites and the distribution criterion *where the distribution criterion includes a query executable against portions of the application data*, as recited by independent claims 1, 10 and 19.

Accordingly, neither Bracho nor Cheng, nor any proper combination of these references, describes or suggests the subject matter recited by amended claim 1. For at least these reasons, applicant respectfully requests reconsideration and withdrawal of the rejection claims 5-7, 14-16 and 20, which each depend from one of claims 1, 10 or 19, respectively.

Conclusion

Applicant submits that all claims are in condition for allowance.

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the

Applicant : Peter Gernold
Serial No. : 10/784,848
Filed : February 24, 2004
Page : 10 of 10

Attorney's Docket No.: 13906-184001 / 2003P00962 US

amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

The fee in the amount of \$460.00 in payment of the two-month extension of time is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. In the event that any other fees are due, please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: April 28, 2008

Barbara A Benoit
Barbara A. Benoit
Reg. No. 54,777

Customer No. 32864
Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500
Telephone: (202) 783-5070
Facsimile: (202) 783-2331